UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/810,334	03/14/2001	Stephen J. Brown	7553.00019 / 01-0310	6688

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EXAMINER
KOPPIKAR, VIVEK D

ART UNIT	PAPER NUMBER
3686	

MAIL DATE	DELIVERY MODE
10/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	09/810,334	BROWN, STEPHEN J.
	Examiner	Art Unit
	VIVEK D. KOPPIKAR	3686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 July 2008*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7,9-16 and 18-22* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7, 9-16 and 18-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Status of the Application

1.   Claims 1-7, 9-16 and 18-22 have been examined in this application. This is a Final office action in response to the "Amendment" and "Remarks" filed on July 3, 2008.

Claim Rejections - 35 USC § 102

2,   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3.   Claims 1-7, 9-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Number 6,584,445 to Papageorge.

(A)   As per claim 1, Papageorge teaches a server comprising:

a questionnaire generator for (i) generating a questionnaire comprising (a) one or more questions for determining an expression of risk for an individual (b) a first number of answer options to each of said questions and (c) one or more follow-up actions, wherein said expression of risk concerns at least one of a physical condition of said individual, a mental condition of said individual, and a behavior of said individual, (ii) associating each of said answer options with one of a second number of values representing a level of risk, said second number of values

being greater than said first number of answer options and (iii) transmitting said questionnaire

from said server to an apparatus, wherein said apparatus is (a) associated with said individual and

(b) remotely located from said server (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33 and Col. 11, Ln.

15-30);

a database in a storage medium, said database containing model information relating to

(i) an aspect of care, (ii) said expression of risk and (iii) said level of risk (Papageorge: Col. 8,

Ln. 4-Col. 9, Ln. 33);

and a profile generator for (i) generating a profile for said individual based on one or

more of said aspects of care, responses to said questions, said expression of risk and said level of

risk associated with said individual and (ii) sending health related information to said individual

based on said profile, wherein data relating to said physical condition of said individual

comprises patient information from one or more medical claims received by said server from a

medical claims paying organization associated with said individual (Papageorge: Col.8, Ln. 4-

Col.9, Ln. 33).

(B)   As per claim 2, in Papageorge the profile of said individual is updated based on

one or more follow-up responses (Papageorge: Col. 8, Ln. 22-24).

(C)   As per claim 3, in Papageorge the profile further comprises a language of said

individual, and a current health condition of said individual and (ii) said questionnaire generator

also tailors said questionnaire in dependence upon said language and said current health

condition of said individual (Papageorge: Col. 7, Ln. 65-Col. 8, Ln. 4).

(D)   As per claim 4, in Papageorge the questionnaire generator further generates a

motivational profile and a comprehension capacity profile of said individual based on said

responses to said questions received by 5 said server from said apparatus (Papageorge: Col. 8,

Ln. 4-Col. 9, Ln. 33).

(E)   As per claim 5, in Papageorge the health related information comprises

a request for additional responses; and educational information (Papageorge: Col. 7, Ln. 65-

Col.8, Ln. 4).

(F)   As per claim 6, in Papageorge the educational information is received by said

server from an external source (Papageorge: Col. 7, Ln. 65-Col.8, Ln. 4).

(G)   As per claim 7, in Papageorge the data relating to said physical condition of said

individual further comprises one or more measurements received by said server from a

monitoring device connected to said apparatus (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33).

(H)   As per claim 9, in Papageorge the data related to said physical condition of said

individual further comprises medical information from electronic medical records

received by said server from a services organization associated with said individual

(Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33).

(I)   As per claim 10, Papageorge teaches a method for providing customized health

information to an individual (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33), said method

comprising the steps of:

(A) generating a questionnaire comprising (i) one or 5 more questions for determining an

expression of risk for said individual (ii) a first number of answer options to each of said

questions <u>and (iii) one or more follow-up actions,</u> wherein said expression of risk

concerns at least one of a physical condition of said individual, a mental condition of said

individual, and a behavior of said individual (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33);

(B) associating each of said answer options with one of a second number of values

representing a level of risk, wherein said second number is greater than said first number

(Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33);

(C) transferring said questionnaire from a server to an apparatus, wherein said apparatus

is (i) associated with said individual and (ii) remotely located from said server

(Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33);

(D) accessing a database in a storage medium, said database containing model

information relating to (i) an aspect of care, (ii) said expression of risk and (iii) said level

of risk (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33 and Col. 11, Ln. 21-22);

(E) generating a profile for said individual based on one or more of said aspects of care,

responses to said questions, said expression of risk and said levels of risk associated with

said individual(Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33 and Col. 11, Ln. 21-22) ; and

(F) sending health related information to said individual based on said profile, wherein

data relating to said physical condition of said individual comprises patient information

from one or more medical claims received by said server from a medical claims paying

organization associated with said individual (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33 and

Col. 11, Ln. 21-22).

(J)   As per claim 11, in Papageorge there is a step of

updating said profile after said server receives one or more follow-up responses

(Papageorge: Col. 8, Ln. 21-25).

(K)   As per claim 12, in Papageorge there is a step of registering a language of said

individual, and a current health condition of said individual in said profile; tailoring said

questionnaire to said individual in dependence upon said language and said current health

condition of said individual (Papageorge: Col. 7, Ln. 65-Col. 8, Ln. 4).

(L)   As per claim 13, in Papageorge the health related information comprises: a

request for additional responses; and educational information (Papageorge: Col. 8, Ln. 4-

Col. 9, Ln. 33).

(M)   As per claim 14, in Papageorge the educational information is received by said

server from an external source (Papageorge: Col. 7, Ln. 65-Col. 8, Ln. 4).

(N)   As per claim 15, in Papageorge there is a step of generating a report comprising

said profile (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).

(O)   As per claim 16, in Papageorge the data relating to said physical condition further

comprises one or more measurements received by said server from a monitoring device

connected to said apparatus (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).

(P)   As per claim 17, in Papageorge the data relating to said physical condition of said

individual further comprises medical information from electronic medical records

received by said server from a services organization associated with said individual

(Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).

(Q)   As per claim 19, Papageorge teaches a storage medium for use in a server to communicate with one or more patient devices, the storage medium recording a computer program that is readable and executable by the server (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33), the computer program comprising the steps of:

 (A) displaying a plurality of icons of a plurality of questions, a plurality of answers a plurality of follow-up actions and a plurality of follow-up answers (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33);

(B) receiving a selection to each of a particular question of said questions, a particular answer of said answers a particular follow-up action of said follow-up actions and a particular follow-up answer of said follow-up answers from a user (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).;

(C) linking said icons of said particular question, said particular answer said particular follow-up action and particular follow-up responses (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33); and

(D) converting said linked icons into a questionnaire (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).;

and

(E) transmitting said questionnaire to said one or more patient devices over a communication network (Papageorge: Abstract and Col. 8, Ln. 4-Col. 9, Ln. 33).

(J)   As per claim 20, the computer program further comprises the step of:

assigning a position of said particular answer along a risk scale ranging from a low risk

value to a high risk value (Papageorge: Col. 11, Ln. 20-24).

(K)   As per claim 21, Papageorge further comprising the steps of

registering a language of an individual and a current health condition of said individual in

a profile; and tailoring program to said individual in dependence upon said language and

said current health condition of said individual (Papageorge: Col. 7, Ln. 65-Col. 8, Ln. 4).

(L)   As per claim 22, Papageorge further comprising the step of simulating said

questionnaire prior to said transmission of said questionnaire to said one or more patient

devices (Papageorge: Col. 8, Ln. 4-Col. 9, Ln. 33).

Response to Arguments

4.   Applicant's arguments with respect to the pending claims have been considered

but are moot in view of the new ground of rejection.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7.   Any inquire concerning this communication or earlier communications from the examiner should be directed to Vivek Koppikar, whose telephone number is (571) 272-5109. The examiner can normally be reached from Monday to Friday between 8 AM and 4:30 PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Jerry O'Connor, can be reached at (571) 272-6787. The fax telephone numbers for this group are either (571) 273-8300 or (703) 872-9326 (for official communications including After Final communications labeled "Box AF").

8.   Another resource that is available to applicants is the Patent Application

Information Retrieval (PAIR). Information regarding the status of an application can be obtained

from the (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAX. Status information for unpublished applications is available

through Private PAIR only. For more information about the PAIR system, see http://pair-

direct.uspto.gov. Should you have questions on access to the Private PAIR system, please feel

free to contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sincerely,

/VDK/
Examiner, Art Unit 3686
October 10, 2008

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686

Application Number	Application/Control No.	Applicant(s)/Patent under Reexamination
	09/810,334	BROWN, STEPHEN J.
	Examiner	**Art Unit**
	VIVEK D. KOPPIKAR	3686